

#### **REMARKS**

Claims 16-19 and 26-37 were pending in the application and have been rejected. Applicant respectfully requests reconsideration of the now pending claims 26-37.

Applicant has canceled claims 16-19 and has amended claims 26 and 32. Support for the amendments can be found at paragraphs [0053], [0058] and [0064-0067] of Applicant's disclosure (see US Patent Application Publication 2003/0005093. No new matter has been added to the claims.

#### **CLAIM REJECTIONS UNDER 35 USC § 102**

The Office Action rejected claims 16-19 and 26-37 under 35 USC 102(e) as being anticipated by US Patent number 7,080,371 issued to Arnaiz. Applicant respectfully traverses this rejection and requests reconsideration of the rejection in light of the amendments and the arguments set forth herein and in the prior response.

Claims 16-19 have been canceled, therefore Applicant will address the claims rejections of claims 26-37.

Independent claims 26 and 32 have been amended to more clearly state the invention and overcome any confusion between the "bundled package" of the instant invention and the "upgrade kit" of Arnaiz.

The current invention provides a server versioning tool for versioning each server configuration file associated with an application. The versioning tool stores the multiple versions of configuration files, along with the application associated data. Given a specific

request for a particular version of a server configuration file, the server versioning tool is able to bundle together the requested server configuration file along with the associated application and transmit it to the recipient for running the application. Since the server versioning tool can be used for testing purposes, the request may be for a former version, not necessarily a most recent version of the configuration file. This is in contrast to Arnaiz which deals with upgrading database software to the latest version of that software.

Arnaiz also differs in that Arnaiz does not “pre-associate” the applications with versions of the config files needed to run them. Arnaiz must first transfer the database software upgrade, which the Examiner finds analogous to the instant “application” and then determine if the customer has all of the necessary files to run that upgrade.

Arnaiz is limited to database upgrades and database configurations (schemas). Arnaiz prepares an upgrade kit to install a database software upgrade on a client. Arnaiz’s upgrade kit contains the database software to be installed, except that it does not contain a server configuration file that has already been determined to be associated with the application to be installed. Arnaiz teaches away from bundling the application and the associated configuration file because Arnaiz must handle the application and any configuration file in separate downloads. Arnaiz first installs an “upgrade wizard” as part of the upgrade kit. Before installing the database software, the upgrade wizard checks to be sure the versions are up-to-date. If not, the upgrade wizard enables the client to retrieve the latest version and any database schema files that are necessary to complete the software upgrade. See Arnaiz at Col. 10, lines 45-64:

Dbinit performs these steps:

Connect to Server. Dbinit prompts the user for the name of the local mobile client, the password for the mobile client and the address of the Remote Server (the mobile user should get this information ....

Perform version check and download upgrade kits. Dbinit then performs a version check to ensure that all required software components exist on the local machine. Dbinit first downloads the required versions (i.e. the compiled information) from the docking server. Dbinit compares the required versions against the versions on the local machine. If one or more versions do not match, then Dbinit downloads information about all upgrade kits. Dbinit then searches for upgrade kits to apply and downloads the upgrades (sic) kits to the local inbox directory.

If Arnaiz had anticipated the claimed invention, Arnaiz's "upgrade wizard" would have been able to reach into its upgrade kit and pull out all the necessary config files for running any requested version, not just an upgrade version. However, Arnaiz's wizard is not able to perform this feat because Arnaiz is concerned only with database upgrades, not server versioning as in the instant application; therefore Arnaiz had no need for bundling a particular version of a

server config file with an application.

As stated in the prior response to the previous office action, Applicant reiterates that anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention **arranged as in the claim**. *Soundscriber Corp. v. U.S.*, 360 F.2d 954, 960, 148 USPQ 298 , 301 [175 Ct. Cl. 644 ] (1966). See also *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1462, 221 USPQ 481, 489 (Fed. Cir. 1984). A prior art disclosure that "almost" meets that standard may render the claim invalid under § 103; it does not "anticipate." *Jamesbury Corp. v. Litton Industrial Products, Inc.* 756 F.2d 1556 (Fed. Cir. 1985). To anticipate a claim, a reference must disclose every element of the challenged claim **and enable one skilled in the art to make the anticipating subject matter**. *Chester v. Miller*, 906 F.2d 1574, 1576 n.2, 15 USPQ2d 1333, 1336 n.2 (Fed. Cir. 1990); *In re Donohue*, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985).

Claims 27- 31 are not anticipated by Arnaiz at least by virtue of their dependence on claim 26.

Claim 32 is an article of manufacture counterpart of claim 26 and is therefore not anticipated by Arnaiz.

Claims 33-37 are not anticipated by Arnaiz at least by virtue of their dependence on claim 32.

For the foregoing reasons, Applicant respectfully requests allowance of the pending claims.

Respectfully submitted,

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E-Filed on Date: September 18, 2008

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